

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RANDALL E. COOK,

Petitioner,

v.

No. 20-cv-476 KWR-JHR

RICHARD MARTINEZ and
ATTORNEY GENERAL OF THE
STATE OF NEW MEXICO,

Respondents.

ORDER TO ANSWER

This matter is before the Court on Petitioner Randall Cook's Amended 28 U.S.C. § 2254 habeas corpus petition (Doc. 7) (Amended Petition). Petitioner challenges his state criminal convictions based on, inter alia, ineffective assistance of trial counsel and due process violations. Having reviewed the Amended Petition pursuant to 28 U.S.C. § 2254 and Habeas Corpus Rule 4, the Court determines the claims must be resolved on a full record. The Court will order Respondents to answer the Amended Petition, which is the controlling pleading in this case.

Accordingly, **IT IS ORDERED** that the Clerk forward copies of this Order and the Amended Petition (Doc. 7) to Respondent Attorney General of the State of New Mexico (AG);

It is **FURTHER ORDERED** that Respondents answer the Amended Petition within **60 days** of entry of this Order. Respondents' answer must address the merits of each claim and whether the Petitioner has exhausted his state court remedies. If the Amended Petition is mixed, and contains both exhausted and unexhausted claims, Respondents should take a position on how to proceed (*i.e.* stay the case while Petitioner exhausts all claims, overlook exhaustion and dismiss on the merits, delete the unexhausted claims, etc). Respondents must attach to their answer copies

of any filing pertinent to the issue of exhaustion and/or the merits that was filed by Petitioner in the sentencing court, the state district court, the state court of appeals, and the state supreme court; and copies of all memoranda filed by both parties. Respondents must also attach to the answer copies of all state court post-conviction or appellate proceedings and any trial transcripts that are necessary to resolve the claims. The answer must describe the procedural history of each claim that Respondents contend is unexhausted and identify the State procedures that are currently available to Petitioner.


UNITED STATES MAGISTRATE JUDGE